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LAMBERT & ASSOCIATES
SUITE 200
92 STATE ST
BOSTON, MA 02109

EXAMINER

MISIASZEK, MICHAEL

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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1 UNITED STATES PATENT AND TRADEMARK OFFICE

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4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
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8 *Ex parte* KEITH GOCLOWSKI
9

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11 Appeal 2009-006885
12 Application 10/722,662
13 Technology Center 3600
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18 *Before* MURRIEL E. CRAWFORD, ANTON W. FETTING, and
19 JOSEPH A. FISCHETTI, *Administrative Patent Judges*.

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21 CRAWFORD, *Administrative Patent Judge*.
22

23
24 DECISION ON APPEAL¹

¹The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134 (2002) from a Final Rejection of claims 1 and 3-8. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

Appellant invented systems and methods for vehicle auctions augmented by the use of computer systems and networks (Spec. 2:11-12).

Independent claim 1 under appeal reads as follows:

1. An interactive vehicle auction and sale system comprising:
 - a plurality of computers;
 - a computer network enabling communication between said plurality of computers;
 - a plurality of user interface terminals in connection with said computer network, said terminals utilized to display an amount of auction and sales information and to input a series of auction bids;
 - a plurality of databases and corresponding database servers for storage of an amount of vehicle statistics;
 - an input computer in communication with said network to receive and to route said amount of auction and sales information to a plurality of database servers;
 - a web server in communication with said plurality of user interface terminals and said plurality of database servers, through said network, said web server utilized to control said vehicle auction and sale system, coordinate said series of auction bids and maintain communications between said plurality of user interface terminals and a plurality of servers;
 - an applications server in communication with said network and said user interface

1 terminals; said applications server containing a
2 system software program for operating said
3 interactive vehicle auction and sale system;
4 a vehicle image and video server in
5 communication with said network and said user
6 interface terminals, containing a plurality of
7 electronic vehicle images and a plurality of vehicle
8 video media to be accessed by said user terminals;
9 a template server in communication with
10 said network and said user interface terminals,
11 containing a plurality of templates to be accessed
12 by said user interface terminals in conjunction with
13 said system software program, an amount of data
14 from said template server utilized as a plurality of
15 interactive computer screens;
16 a plurality of mail servers in communication
17 with said network, said plurality of mail servers
18 utilized to receive an amount of auction and sales
19 information from said users; said mail servers also
20 utilized to respond to said users;
21 a plurality of protection mechanisms
22 contained within said network to protect said
23 database servers from unwanted access;
24 a bank system connection in communication
25 with said network to enable verification of a credit
26 line of a vehicle purchaser; and
27 an auction timer, wherein said auction timer
28 controls an amount of time allotted for said
29 interactive vehicle auction and a readout of said
30 timer is displayed on said user interface terminals.

31
32 The prior art relied upon by the Examiner in rejecting the claims on
33 appeal is:

34	Berent	US 5,774,873	Jun. 30, 1998
35	Alaia	US 2002/0046148 A1	Apr. 18, 2002
36	Friedland	US 6,449,601 B1	Sep. 10, 2002

The Examiner rejected claims 1 and 3-8 under 35 U.S.C. § 103(a) as being unpatentable over Berent in view of Friedland and Alaia.

We REVERSE.

ISSUE

Did the Examiner err in asserting that a combination of Berent, Friedland, and Alaia renders obvious a combination of elements including “an auction timer” as recited in independent claim 1 and dependent claim 3?

FINDINGS OF FACT

Alaia discloses that many systems are biased towards the supplier offering the electronic market. Procurement costs can be further lowered with an unbiased electronic market that promotes competition (para. [0006]).

ANALYSIS

We are persuaded that the Examiner erred in asserting that a combination of Berent, Friedland, and Alaia renders obvious a combination of elements including “an auction timer” as recited in independent claim 1 and dependent claim 3 (App. Br. 16-21). Even assuming that Alaia discloses an auction timer, the Examiner has not provided a convincing line of reasoning for combining the auction timer of Alaia with Berent and Friedland to render obvious the subject matter of independent claim 1. *See In re Oetiker*, 977 F.2d 1443, 1447 (Fed. Cir. 1992).

The Examiner points to paragraph [0006] of Alaia as providing such reasoning, however, the Examiner has made no findings as to how a bias “towards the supplier offering the electronic market” and lowering

1 procurement costs with an unbiased, competitive electronic market, makes it
2 obvious to combine an auction timer with the disclosures of Berent and
3 Friedland. *See In re Oetiker*, 977 F.2d at 1447 (the examiner must present a
4 convincing line of reasoning as to why the artisan would have found the
5 claimed invention to have been obvious in light of the teachings of the
6 references).

7
8 DECISION

9 The decision of the Examiner to reject claims 1 and 3-8 is reversed.

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11 REVERSED

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